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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,168	11/20/2006	Nico Erasmus	183-14	9991
24336 7590 08/31/2010 TUTUNJIAN & BITETTO, P.C. 20 CROSSWAYS PARK NORTH SUITE 210 WOODBURY, NY 11797				
EXAMINER				
SINGH, SUNIL				
ART UNIT		PAPER NUMBER		
3672				
MAIL DATE		DELIVERY MODE		
08/31/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,168

Applicant(s)

ERASMUS ET AL.

Examiner

Sunil Singh

Art Unit

3672

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,5,8,11,13,14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,5,8,11,13,14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2,4,5,8,11,13,14,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godley et al. (US 3779025) in view of Examiner taking Official notice. Godley et al. discloses a support comprising: a single deformable tubular sleeve with a circular cross section (see Fig. 4, col. 3 lines 1-40) made from a ductile metal, which has a first end and an opposed second end, a first material (36) with a first strength characteristic inside a first interior portion of the sleeve and filling said first interior portion of the sleeve; and a second material (40) with a second strength characteristic inside a remainder of the sleeve interior and filling said remainder of the sleeve interior; the first interior portion having a length, in an axial direction of the sleeve, which is greater than the length of the remainder of the sleeve interior in the axial direction of the sleeve. Godley et al. discloses the invention substantially as claimed. However, Godley et al. is silent about the first and second cementitious material being aerated. Further, Godley et al. is silent about the first cementitious material being stronger than the second cementitious material. The examiner takes Official notice that it is well known to have aerated cementitious materials. Further, the examiner takes Official Notice that it is well known to have one cementitious material stronger than another cementitious

material. It would have been considered obvious to one of ordinary skill in the art to modify Godley et al. by having the cementitious material be aerated in order to compensate for freeze thaw cycles. Further, it would have been considered obvious to one of ordinary skill in the art to modify Godley et al. by having the first cementitious material stronger than the second cementitious material since the first material will carry the majority of the load.

With regards to claims 4,5, it would have been considered obvious to one of ordinary skill in the art to modify Godley et al. to have the length limitations as called for in claims 4,5 since such a modification would be based upon design parameters.

With regards to claims 8,11 it would have been considered obvious to one of ordinary skill in the art to modify Godley et al. to have the density limitations as called for in claims 8,11 since such a modification would be based upon design parameters.

With regards to claims 13,14, it would have been considered obvious to one of ordinary skill in the art to modify Godley et al to have limitations as called for in claims 13,14, since such a modification would be based upon design parameters.

Response to Arguments

3. Applicant's arguments with respect to claim 16 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

4. It should be noted that if applicant were to amend claim 16 by deleting both occurrences of the phrase "in use,"; claim 16 would define over the prior art and would therefore be allowable along with all of the dependent claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

Sunil Singh
Primary Examiner
Art Unit 3672

SS

8/28/10